

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DARRELL MCKAY, an individual,

Civil No. 04-1569-PK

Plaintiff,

ORDER ADOPTING FINDINGS  
AND RECOMMENDATION

v.

ALBERTSONS, INC., a foreign business  
corporation,

Defendant.

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Magistrate Judge Paul Papak issued a Findings and Recommendation [56] recommending that defendant Albertsons' Motion for Summary Judgment [31] be denied. Albertsons timely filed objections, and the disputed Findings and Recommendation was referred to this Court for review.

When a party objects to any portion of the Magistrate's Findings and Recommendation, a District Court must make a *de novo* determination of that portion of the Magistrate's report. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp v Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9<sup>th</sup> Cir. 1981).

The Court has given the file of this case a *de novo* review, and has also carefully evaluated the Magistrate's Findings and Recommendation, the objections, and the Record of the case.

Defendant Albertsons objected on a number of bases but asserted that Magistrate Papak ignored or overlooked plaintiff's permanent lifting restriction. Plaintiff argued that there are a number of ways he could avoid the specified ICS lifting requirements. *See plaintiff's Response [65] at 4.*

A District Court may affirm a Magistrate Judge's Findings and Recommendations on any other ground supported by the record. *See Gemtel Corp. v. Cnty. Redevelopment agency*, 23 F.3d 1542, 1546 (9<sup>th</sup> Cir.1994).

The objections are DENIED, and the Findings and Recommendation is ADOPTED in its entirety.

DATED this 3 day of August, 2006.

/s/Ancer L.Haggerty  
Ancer L. Haggerty  
Chief U. S. District Court Judge